

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRUCE BIRCH,

Plaintiff

v.

DOUGLAS RANDS, et. al.,

Defendants

Case No.: 3:20-cv-00618-MMD-WGC

**Report & Recommendation of
United States Magistrate Judge**

This Report and Recommendation is made to the Honorable Miranda M. Du, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR 1B 1-4.

Plaintiff Bruce Birch, who was incarcerated within the Nevada Department of Corrections (NDOC), and filed a pro se application to proceed in forma pauperis (IFP) and complaint against Deputy Attorney General Douglas Rands under 42 U.S.C. § 1983. (ECF Nos. 1, 1-1.) On January 13, 2021, District Judge Du entered an order indicating that a suggestion of death on the record was filed in another case in which Bruce Birch was a plaintiff, and instructed defendant Rands to similarly file a suggestion of death in this case if he believes that Birch had passed away. (ECF No. 5.) On January 14, 2021, defendant Rands filed a suggestion of death upon the record. (ECF No. 7.) To date, no motion for substitution has been made by a party or the decedent's successor or representative; therefore, this action should be dismissed under Federal Rule of Civil Procedure 25(a)(1).

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the District Judge enter an order **DISMISSING** this action under Federal Rule of Civil Procedure 25(a)(1).

The parties should be aware of the following:

1. That they may file, pursuant to 28 U.S.C. § 636(b)(1)(C), specific written objections to this Report and Recommendation within fourteen days of being served with a copy of the Report and Recommendation. These objections should be titled “Objections to Magistrate Judge’s Report and Recommendation” and should be accompanied by points and authorities for consideration by the district judge.

2. That this Report and Recommendation is not an appealable order and that any notice of appeal pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure should not be filed until entry of judgment by the district court.

Dated: April 16, 2021



William G. Cobb
United States Magistrate Judge